



BOARD OF SUPERVISORS SPECIAL MEETING
WEDNESDAY, SEPTEMBER 8, 2021
6:00 PM

[Susan M. Adams](#), County Administrator

Board of Supervisors Meeting Room
Carver-Price Education Complex
171 Price Lane, Appomattox, VA 24522

www.AppomattoxCountyVA.gov

CALL TO ORDER

Invocation - Mr. Abbitt
Pledge of Allegiance

ACTION ITEMS

1. [21-2101](#) **School Construction - Option 1 or Option 2**
Discuss and approve financing Option 1 or Option 2 for the Farmer's Bank loan as presented by Davenport at the August meeting.
2. [21-2102](#) **School Construction Funding Resolution**
Review the attached funding resolution and agreements and adopt as presented or with suggested changes.
Documents: [BOS Resolution \(Farmers Bank Option\).pdf](#), [EDA Bond Purchase Agreement.pdf](#), [Lease Agreement between County and EDA.pdf](#)
3. [21-2103](#) **Tour of the Animal Control Shelter**
Adjourn to the Animal Shelter tour located at 3074 Morning Star Road in Appomattox County.

UPCOMING MEETINGS

Monday, September 20, 2021 @ 6:30 PM

Regular Scheduled Meeting
Board of Supervisors Meeting Room
171 Price Lane, Appomattox, Virginia

ADJOURNMENT

**RESOLUTION OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF APPOMATTOX, VIRGINIA
(FARMERS OPTION)**

WHEREAS, the Board of Supervisors (**the “Board of Supervisors”**) of the County of Appomattox, Virginia (**the “County”**) directed Davenport & Company LLC (**the “Financial Advisor”**) to prepare and distribute a Request for Proposals (**the “RFP”**) to obtain financing proposals to finance various County capital needs;

WHEREAS, the Financial Advisor reviewed responses to the RFP for the financing of the Projects (as defined below) and along with the County’s Bond Counsel, Sands Anderson PC, Richmond, Virginia (**“Bond Counsel”**) and the County Administrator recommends that the Board of Supervisors accept the proposal dated August 2, 2021 (**the “Proposal”**) from The Farmers Bank of Appomattox (**the “Lender”**) for such financing with an interest rate as set forth in such Proposal and subject to such other terms as set forth therein;

WHEREAS, the Board of Supervisors has requested the Economic Development Authority of Appomattox County, Virginia (**the “Authority”**) to (a) issue, offer and sell its lease revenue bond in an amount of approximately \$10,000,000 (**the “Bond”**) to finance school capital improvements in the County, including but not limited to, renovations and improvements to Appomattox County High School (**the “Projects”**), (b) lease the County’s High School building property (**the “Leased Property”**) from the Appomattox County School Board (**the “School Board”**) for an approximately twenty-six year term under a Ground Lease (as defined below), and in turn, lease the Leased Property to the County for a term not to exceed the term of the Bond under a Lease Agreement (as defined below) with the Authority and (c) secure the Bond by an assignment of its rights under such Lease Agreement (except the right to receive indemnification, to receive notices and to give consents and to receive its administrative expenses) and the Ground Lease under an Assignment Agreement (as defined below), which is to be acknowledged and consented to by the County and the School Board, all in accordance with a Bond Purchase Agreement (as defined below);

WHEREAS, there have been presented to this meeting drafts of the following documents (**collectively, the “Documents”**) in connection with the transactions described above, copies of which shall be filed with the records of the County:

- a. a Ground Lease, dated as of September 1, 2021, between the School Board and the Authority conveying to the Authority a leasehold interest in the Leased Property described therein (**the “Ground Lease”**);
- b. a Lease Agreement, dated as of September 1, 2021, between the Authority and the County (**the “Lease Agreement”**) conveying to the County a leasehold interest in such Leased Property;
- c. a Bond Purchase Agreement, dated as of September 1, 2021 among the Authority, the County and the Lender, pursuant to which the Bond is to be issued (**the “Bond Purchase Agreement”**);

- d. an Assignment Agreement, dated as of September 1, 2021 between the Authority and the Lender, assigning to the Lender certain of the Authority's rights under the Lease Agreement and the Ground Lease, which is to be acknowledged and consented to by the County and the School Board (**the "Assignment Agreement"**);
- e. a specimen Bond.

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF APPOMATTOX COUNTY, VIRGINIA:

1. The Proposal and the following plan for financing the Projects is approved. The Authority shall use the proceeds from the issuance of the Bond to provide for the financing of the Projects by the County and to lease the Leased Property from the School Board for a lease term of approximately twenty-six years and to lease the Leased Property to the County for a lease term not less than the term of the Bond at a rent sufficient to pay when due the interest and principal on the Bond. The obligation of the Authority to pay principal and interest on the Bond will be limited to rent payments received from the County under the Lease Agreement. The obligation of the County to pay rent under the Lease Agreement will be subject to the Board of Supervisors of the County making annual appropriations for such purpose. The Board of Supervisors on behalf of the County has adopted this resolution as its moral obligation to the repayment of the Bond and as a statement of its intent to consider the appropriation of funds sufficient to pay rent under the Lease Agreement annually during the term thereof. The Bond will be secured by an Assignment Agreement to the Lender as the holder thereof. If the Board of Supervisors exercises its right not to appropriate money for rent payments, the Lender may terminate the Lease Agreement or otherwise exclude the County from possession of the Leased Property. The issuance of the Bond on the terms set forth in the Bond Purchase Agreement is hereby approved.

2. The Authority is hereby requested to undertake the issuance of the Bond, to loan the proceeds of the Bond for the financing of the Projects and to secure the Bond as set forth in the Documents.

3. The Board of Supervisors, while recognizing that it is not empowered to make any binding commitment to make appropriations beyond the current fiscal year, hereby states its intent to make annual appropriations in future fiscal years in amounts sufficient to make all payments due under the Lease Agreement and hereby recommends that future Boards of Supervisors do likewise during the term of the Lease Agreement. The Projects are hereby declared to be essential to the efficient operation of the County and the Board of Supervisors anticipates that the Projects will continue to be essential to the operation of the County during the term of the Lease Agreement and the term of the Bond.

4. The Chairman or Vice Chairman of the Board of Supervisors (**the "Chairman"**) is authorized and directed to execute or approve the Documents, which shall be in substantially the forms submitted to this meeting, which are approved, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the Chairman, his execution to constitute conclusive evidence of his approval of any such completions, omissions, insertions and changes.

5. The Documents shall provide for payments in amounts equivalent to the payments on the Bond, which shall be sold to the Lender with the payments corresponding to the following terms of the Bond: (a) the Bond shall be in the principal amount not to exceed \$10,000,000, (b) the Bond shall have a fixed interest rate not to exceed 1.99%, during the initial "interest only" period through May 1, [2023][2028] and a fixed interest rate not to exceed 1.89% thereafter, (c) the Bond shall have an amortization of approximately 21 years from its date of issuance, maturing no later than May 1, 2042 and (d) such Bond shall be subject to optional redemption and other terms as set forth therein with such changes, including but not limited to changes in the amounts, dates, payment dates and rates as may be approved by the officer executing them whose signatures shall be conclusive evidence of his approval of the same. Following the issuance of the Bond, the Chairman shall evidence his approval of the final terms and purchase price of the Bond by executing the Bond Purchase Agreement. The actions of the Chairman in approving the terms of the Bond by executing the Bond Purchase Agreement shall be conclusive, and no further action shall be necessary on the part of the Board of Supervisors.

6. The Chairman, Clerk of the Board of Supervisors, County Administrator, the County Treasurer, the County Attorney and all other officers of the County are hereby authorized and directed to work with representatives of the Authority, the Financial Advisor, Bond Counsel, the Lender and its representatives to perform all services and prepare and execute all documentation necessary to issue the Bond, including approving the final forms of the Documents, and to take all such further action as they may consider necessary or desirable in connection with the issuance of the Bond and the financing of the Projects.

7. The County represents and covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") or otherwise cause the interest on the Bond to be includable in gross income for Federal income tax purposes under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the Authority or the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds from the sale of the Bond.

8. All costs and expenses in connection with the financing of the Projects and the issuance of the Bond, including the Authority's fees and expenses and expenses of bond counsel, the County Attorney, the County's Financial Advisor, counsel for the Authority, and the Lender shall be paid from the proceeds of the Bond or other legally available funds of the County. If for any reason the Bond is not issued, it is understood that all such expenses shall be paid by the County from its legally available funds and that the Authority shall have no responsibility therefor.

9. All other acts of the Chairman and such other officers of the County as designated by the Chairman that are in conformity with the purposes and intent of this Resolution and in furtherance of the plan of financing, the issuance and sale of the Bond and the financing of the Projects are hereby approved and ratified.

10. This Resolution shall take effect immediately.

PASSED AND ADOPTED this ____ day of August, 2021.

The Resolution set forth above was adopted by a majority of the Board of Supervisors in an open meeting, during a regular meeting of the Board of Supervisors of Appomattox County, Virginia on August __, 2021 in which a quorum was present at all times, by the following votes:

AYES:

NAYS:

ABSENT:

ABSTENTIONS:

Clerk, Board of Supervisors

**ECONOMIC DEVELOPMENT AUTHORITY OF
APPOMATTOX COUNTY, VIRGINIA
\$10,000,000 LEASE REVENUE BOND, SERIES 2021**

BOND PURCHASE AGREEMENT

Dated as of September 1, 2021

Economic Development Authority of
Appomattox County, Virginia
Appomattox, Virginia

County of Appomattox, Virginia
Appomattox, Virginia

Ladies and Gentlemen:

The Farmers Bank of Appomattox (**the “Lender”**), hereby agrees to enter into this Bond Purchase Agreement (**the “Agreement”**) with the Economic Development Authority of Appomattox County, Virginia (**the “Authority”**) and the County of Appomattox, Virginia (**the “County”**) for a loan to the Authority for the benefit of the County evidenced by the purchase by the Lender and sale by the Authority of its \$10,000,000 Lease Revenue Bond, Series 2021 (**the “Bond”**), dated as of September __, 2021, such Bond maturing in the years and amounts, with principal amortizing, subject to optional redemption, and bearing interest at the rates as set forth in the form of the Bond attached as **Exhibit A**. The Bond will be “tax-exempt” for purposes of Section 103 of the Internal Revenue Code of 1986, as amended (**the “Code”**).

The proceeds of the Bond will be utilized to finance a portion of school capital needs in the County (**the “Projects”**).

The Bond will be secured by an Assignment Agreement, dated as of September 1, 2021 (**“Assignment Agreement”**), whereby the Authority, as assignor, assigns to the Lender, as assignee, the rights of the Authority under the Ground Lease (as defined below) and the Lease Agreement (as defined below) (except the right to receive payment of certain expenses, if any, to receive indemnification and to receive notices) and shall be payable, to the extent moneys are not otherwise available therefor, solely from revenues to be derived by the Authority from rental payments pursuant to a Lease Agreement, dated as of September 1, 2021 (**the “Lease Agreement”**). The Authority and the Appomattox County School Board (**the “School Board”**) will enter into a Ground Lease, dated as of September 1, 2021, (**the “Ground Lease”**) providing for the lease to the Authority of the County High School building property (**the “Leased Property”**). Hereinafter the Bond, the Lease Agreement, the Ground Lease, the Assignment Agreement and this Bond Purchase Agreement shall be referred to as the **“Documents.”**

Section 1. TERMS AND CONDITIONS

Upon the terms and conditions and upon the basis of the representations set forth herein, the Lender hereby agrees to purchase from the Authority, and the Authority hereby agrees to sell to the Lender, the Bond at the purchase price of 100% of the aggregate principal amount of such Bond (**the "Purchase Price"**) on the date of Closing referred to in Section 4 hereof. The Bond shall be as described in, and shall have the terms and conditions, including but not limited to the payment dates for interest, principal and redemption or prepayment provisions, set forth in the form of the Bond attached as **Exhibit A** hereto and incorporated by this reference. The Bond and all other documents providing for the issuance of the Bond shall be in the forms heretofore delivered to us, with only such changes as shall be mutually agreeable to the Lender and the Authority. The Secretary of the Authority is appointed Registrar of the Bond. Notwithstanding any other provision of this Agreement, the Bond shall not be a general obligation of the Authority, but the obligations of the Authority to make payments of principal, premium, if any, and interest on the Bond shall be in accordance with Article IV of the Lease Agreement, and, in all respects, funds of the Authority pledged to payment of debt service on the Bond shall be subject to appropriation by the Board of Supervisors of the County from time to time. The Bond shall not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia or any political subdivision thereof, including the County and the Authority, other than as the limited obligation of the Authority.

Section 2. REPRESENTATIONS AND WARRANTIES OF THE AUTHORITY

The Authority represents, warrants and agrees with the Lender that:

(a) the Authority is, and will be at Closing (as defined below), duly organized and validly existing as an industrial development authority under the Virginia Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (**the "Act"**) and has the power and authority (1) to issue, sell and deliver the Bond to the Lender as provided herein and (2) to consummate all transactions contemplated by, and perform its obligations under, the Documents.

(b) when delivered to, and paid for by, the Lender at the Closing in accordance with the provisions of this Agreement, the Bond will have been duly authorized, executed, issued and delivered;

(c) the adoption of the resolution authorizing the Bond and the execution and delivery of the Documents and compliance with the provisions thereof, under the circumstances contemplated hereby and thereby, do not and will not (1) violate the Constitution or laws of the Commonwealth of Virginia, including, without limitation, the Act, the ordinances or resolutions creating the Authority, the Authority's Bylaws or any other existing law, rule, regulation, order, writ, judgment, injunction, decree, or determination of any court, regulatory agency or other governmental unit by which the Authority is bound, or (2) conflict with, result in a breach of, or constitute a default under, any existing resolution, ordinance, indenture of trust or mortgage, loan or credit

agreement, or any other existing agreement or instrument to which the Authority is a party or by which the Authority may be bound;

(d) the Authority has duly authorized, executed and delivered, and approved the performance by the Authority of its obligations contained in the Documents;

(e) prior to the Closing, all approvals, consents and orders, if any, of any governmental authority, board, agency or commission having jurisdiction over the Authority which would constitute a condition precedent to the performance by the Authority of its obligations hereunder and under the Bond have been obtained;

(f) no suit, action, proceeding or investigation is pending or, to the knowledge of the Authority, threatened against or affecting any of the Authority's properties, or against or affecting the Authority, before any court or governmental department, commission, board, bureau, agency or instrumentality which involves or would materially affect any of the transactions contemplated hereby, or which, if determined adversely, could have a material adverse effect on (i) the organization or existence of the Authority, (ii) the execution and delivery by the Authority of the Documents, (iii) the performance by the Authority of its obligations under the Documents, (iv) the validity or enforceability of the Documents or the transactions contemplated thereby, (v) the title or authority of any Authority officials executing the Documents or other documents relating to the transactions contemplated thereby, or (vi) any authority or proceeding relating to the execution and delivery of the Documents on behalf of the Authority;

(g) no set of facts exists that, either immediately upon execution and delivery of any of the Documents or with the passage of time or giving of notice, or both, thereafter, would cause or lead to a default or Event of Default under any the Documents;

(h) as of the Closing, the Authority will have complied with all the agreements and satisfied all the conditions on its part required to be performed or satisfied at or prior to the Closing other than those specified hereunder which have been waived by the Lender;

(i) The Authority has not created or suffered to be created or agreed to create or suffer to be created any lien, encumbrance or charge upon the revenues and funds pledged under the Lease Agreement except the pledge, lien and charge for the security of the Bond, and covenants and agrees not to sell or allow the creation of any lien, encumbrance or charge upon such revenues and funds, until payment in full, or except in connection with financing or other action to accomplish the payment in full, of all interest, premium, if any, and principal of the Bond; and

(j) the representations and agreements of the Authority herein will be true and correct in all material respects as of the Closing.

Section 3. REPRESENTATIONS AND WARRANTIES OF THE COUNTY

The County represents, warrants and agrees with the Lender that:

(a) the County has the power and authority to consummate all transactions contemplated by, and perform its obligations under and as contemplated by, the Documents;

(b) the adoption of the resolution authorizing the Documents and the execution and delivery of the Documents and compliance with the provisions thereof, under the circumstances contemplated hereby and thereby, do not and will not (1) violate the Constitution or laws of the Commonwealth of Virginia, or any other existing law, rule, regulation, order, writ, judgment, injunction, decree, or determination of any court, regulatory agency or other governmental unit by which the County is bound, or (2) conflict with, result in a breach of, or constitute a default under, any existing resolution, ordinance, indenture of trust or mortgage, loan or credit agreement, or any other existing agreement or instrument to which the County is a party or by which the County may be bound;

(c) the County has duly authorized, executed and delivered, and approved the performance by the County of its obligations contained in the Documents;

(d) prior to the Closing, all approvals, consents and orders, if any, of any governmental authority, board, agency or commission having jurisdiction over the County or the Projects which would constitute a condition precedent to the performance by the County of its obligations hereunder and under the other Documents have been obtained;

(e) no suit, action, proceeding or investigation is pending nor, to the knowledge of the County, threatened against or affecting any of the Authority's or the County's properties, or against or affecting the Authority or the County, before any court or governmental department, commission, board, bureau, agency or instrumentality which involves or would materially affect any of the transactions contemplated hereby or by the other Documents, or which, if determined adversely, could have a material adverse effect on (i) the organization or existence of the County, (ii) the execution and delivery by the County of the Documents, (iii) the performance by the County of its obligations under the Documents, (iv) the validity or enforceability of the Documents, the Bond or the transactions contemplated thereby, (v) the title or authority of any Authority or County officials executing the Documents, the Bond or other documents relating to the transactions contemplated thereby, (vi) any authority or proceeding relating to the execution and delivery of the Documents or the Bond on behalf of the Authority or the County, (vii) any authority of the County to pay Basic Rent or Additional Rent (as defined in the Lease Agreement) or to perform the County's obligations under the Documents or (viii) that will materially or adversely affect the County's financial condition or ability to operate;

(f) no set of facts exists that, either immediately upon execution and delivery of any of the Documents or with the passage of time or giving of notice, or both, thereafter, would cause or lead to a default or Event of Default under any of such Documents;

(g) as of the Closing, the County will have complied with all the agreements and satisfied all the conditions on its part required to be performed or satisfied at or prior to the Closing other than those specified hereunder which have been waived by the Lender;

(h) the County has not created or suffered to be created or agreed to create or suffer to be created any lien, encumbrance or charge upon the revenues and funds, including but not limited to, the Basic Rent under the Lease except the pledge, lien and charge for the security of the Bond; and

(i) the representations and agreements of the County herein will be true and correct in all material respects as of the Closing.

Section 4. CLOSING

At 10:00 a.m., Richmond, Virginia time, on September __, 2021 or at such other time or date as the Authority, the County and the Lender shall mutually agree upon, the Authority will deliver or cause to be delivered to the Lender, at the offices of Sands Anderson, PC, Richmond, Virginia (**"Bond Counsel"**), or at such other place as the Authority, the County and the Lender may mutually agree upon, the Bond in registered form, duly executed by the Authority and the documents in subsection 5(b) hereof. Concurrently with the notification to the Lender that delivery of the Bond has been made (**the "Closing"**), the Lender will accept such delivery and will cause the payment to the Authority, by immediately available funds, of the Purchase Price of the Bond, as set forth in the Closing Memorandum prepared by Davenport & Company, LLC (**the "Financial Advisor"**) dated as of September __, 2021 (**the "Closing Memo"**).

Section 5. CONDITIONS PRECEDENT TO CLOSING

The Lender has entered into this Agreement in reliance upon the Authority's representations and agreements herein and the performance by the Authority of its obligations hereunder, both as of the date hereof and as of the date of Closing. The Lender's obligations under this Agreement are and shall be subject to the following further conditions:

(a) at the time of Closing, the Documents have been duly adopted or executed and delivered by the parties thereto and shall be in full force and effect and the Documents shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the Lender, and the Authority shall have duly adopted and there shall be in full force and effect such resolutions as, in the opinion of Bond Counsel, shall be necessary in connection with the transactions contemplated hereby and thereby;

(b) at the Closing, the Lender shall receive in addition to the Documents, the following:

(1) (A) the approving opinion, dated the date of Closing, in form and substance satisfactory to the Lender, of Bond Counsel; and (B) the opinion of the Authority Counsel and the County Attorney, in the forms attached hereto as **Exhibit B and Exhibit C**, with such changes in such opinion as Bond Counsel and the Lender shall approve;

(2) Such additional legal opinions, certificates, proceedings, instruments, and other documents, as the Lender or Bond Counsel may reasonably request to evidence (A) compliance by the Authority with legal requirements relating to the issuance of the Bond or the representations set forth in the Tax and Non-Arbitrage Certificate relating to the Bond, (B) the truth and accuracy, as of the date of Closing, of all representations herein contained, and (C) the due performance or satisfaction by the Authority at or prior to such date of all agreements then to be performed and all conditions then to be satisfied as contemplated under this Agreement; and

(3) Resolutions adopted by the School Board on September __, 2021, by the Authority on September __, 2021 and by the Board of Supervisors on September __, 2021, each authorizing the appropriate actions for this financing as approved by Bond Counsel.

If the Authority shall be unable to satisfy the conditions to the Lender's obligations contained in this Agreement or if the Lender's obligations shall be terminated for any reason permitted by this Agreement, this Agreement shall terminate, and neither the Authority nor the Lender shall have any further obligations hereunder, except that (i) the representations and warranties of the Authority set forth in Section 2 herein (as of the date made) will continue in full force and effect.

Section 6. DISBURSEMENTS OF BOND PROCEEDS

At Closing, the Bank will wire in immediately available funds, a portion of the Purchase Price of the Bond to pay the costs of issuance of the Bond, as set forth in the Closing Memorandum prepared by the Financial Advisor. The remaining monies from the Purchase Price of the Bond, if any, will be deposited in a separate and distinct account established by the County in the Virginia State Nonarbitrage Program or other financial institution and disbursed to pay costs of the Projects and any remaining costs of issuance of the Bond.

Section 7. EXPENSES AND COSTS

The expenses and costs of the Authority incident to the issuance of the Bond, including the fees and expenses of Bond Counsel, Authority Counsel, County Attorney and the County's Financial Advisor, shall be paid from the proceeds of the Bond or by the County.

Section 8. FINANCIAL STATEMENTS

The County shall furnish to the Lender, annually during the term of the Bond, with financial statements of the County as soon as available but no later than 270 days after the end of the County's fiscal year, commencing with the fiscal year ending June 30, 2021. Such financial statements must be in a form and degree reasonably acceptable to the Lender and prepared in accordance with generally accepted accounting principles.

Section 9. OPTIONAL PREPAYMENT

The County may, at any time at its option, make prepayments in whole or in part of all then outstanding principal components of Basic Rent corresponding to the Bond, upon fifteen (15) business days' prior written notice to the Lender, upon payment of interest accrued to the redemption date and 100% of the outstanding principal amount of the Bond so prepaid.

Section 10. NOTICES

Any notice or other communication to be given to the parties under this Agreement shall be in writing and shall be deemed delivered if delivered in person or sent by certified mail, return receipt requested, to the parties as follows: if to the Authority, at its address set forth above; and if to the Lender, to The Farmers Bank of Appomattox, P.O. Box 216, Appomattox, Virginia 24522 (Attention: Bruce Drinkard, Senior Vice President).

Section 11. LIMITED BENEFIT; SURVIVABILITY

This Bond Purchase Agreement is made solely for the benefit of the Authority, the County and the Lender (including the successor or assigns of the Lender), and no other person, partnership, association or corporation shall acquire or have any right hereunder or by virtue hereof. All representations and agreements by the Authority, the County and the Lender in this Agreement shall survive the delivery of and payment for the Bond.

Section 12. APPLICABLE LAW

The rights and obligations of the parties to this Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Virginia, exclusive of its conflicts of laws provisions.

Section 13. APPROVAL

The approval of the Lender when required hereunder, or the determination of its satisfaction as to any document referred to herein, shall be in writing signed by the Lender and delivered to the Authority and the County.

Section 14. ENTIRE UNDERSTANDING AND AMENDMENTS

This Agreement expresses the entire understanding and agreement of the parties with respect to the Bond, superseding all prior agreements, whether oral or written, and may not be modified, except in writing, signed by the Lender, the County and the Authority.

Very truly yours,

THE FARMERS BANK OF APPOMATTOX

By: _____

Its: _____

ACCEPTED AND APPROVED:

**ECONOMIC DEVELOPMENT AUTHORITY OF
APPOMATTOX COUNTY, VIRGINIA**

By: _____
Chairman

ACCEPTED AND APPROVED:

COUNTY OF APPOMATTOX, VIRGINIA

By: _____
Chairman, Board of Supervisors

EXHIBIT A

Form of Bond

EXHIBIT B

Form of Authority Counsel Opinion

EXHIBIT C

Form of County Attorney Opinion

LEASE AGREEMENT

between

**ECONOMIC DEVELOPMENT AUTHORITY OF APPOMATTOX COUNTY,
VIRGINIA**

and

COUNTY OF APPOMATTOX, VIRGINIA

Dated as of September 1, 2021

**ALL BASIC RENT (AS DEFINED HEREIN) PAYABLE UNDER THIS
LEASE HAS BEEN ABSOLUTELY ASSIGNED TO, AND IS SUBJECT
TO A SECURITY INTEREST IN FAVOR OF THE FARMERS BANK OF
APPOMATTOX, ITS SUCCESSORS OR ASSIGNS PURSUANT TO AN
ASSIGNMENT AGREEMENT WITH THE ECONOMIC
DEVELOPMENT AUTHORITY OF APPOMATTOX COUNTY,
VIRGINIA AND THE FARMERS BANK OF APPOMATTOX, DATED AS
OF SEPTEMBER 1, 2021, AS AMENDED OR SUPPLEMENTED FROM
TIME TO TIME.**

**This Lease Agreement is exempt from recording taxes under Section 58.1-
811E of the Code of Virginia of 1950, as amended**

**This Lease Agreement is exempt from clerk's fee pursuant to Section 17.1-
266 of the Code of Virginia of 1950**

Prepared by and return to:
Daniel M. Siegel, Esquire
Sands Anderson, PC
P.O. Box 1998
Richmond, Virginia 23219
(804) 648-1636
VSB# 20523

THIS LEASE AGREEMENT, dated as of September 1, 2021, between the **ECONOMIC DEVELOPMENT AUTHORITY OF APPOMATTOX COUNTY, VIRGINIA** a political subdivision of the Commonwealth of Virginia (**the "Authority"**) and grantor for indexing purposes and the **COUNTY OF APPOMATTOX, VIRGINIA**, a county and political subdivision of the Commonwealth of Virginia (**the "County"**) and grantee for indexing purposes;

W I T N E S S E T H:

WHEREAS, the Authority is a political subdivision of the Commonwealth of Virginia duly created under the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (**the "Act"**);

WHEREAS, the Authority is authorized to exercise all the powers set forth in the Act, which include, among other things, the power to finance and refinance and lease facilities for use by a locality, to issue its revenue bonds, notes and other obligations from time to time for this purpose, and to pledge all or any part of the revenues to secure the payment of such obligations;

WHEREAS, pursuant to a Ground Lease entered into between the Authority and the Appomattox County School Board (**the "School Board"**) as of the date hereof, the Authority is acquiring simultaneously with the execution hereof a leasehold interest in the County High School building property (**the "Leased Property"**) located in the County, as more fully described in **Exhibit A** to the Ground Lease and in **Exhibit B** hereto; and

WHEREAS, the Authority has agreed to finance the Projects, as hereinafter defined, and to lease the Leased Property to the County and the County has agreed to finance the Projects and to lease the Leased Property from the Authority.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the parties hereto do hereby agree as follows:

**ARTICLE I.
DEFINITIONS**

Section 1.1 Definitions. The following words as used in this Lease Agreement shall have the following meanings unless the context otherwise requires.

"Additional Bond" or **"Additional Note"** shall mean any bonds or notes issued to finance the completion of the Projects or to refund the Bond or any Additional Bonds or Additional Notes, secured by rent from the lease of the Leased Property under a Supplemental Lease Agreement on a parity basis with the Bond and any other Additional Bonds and Additional Notes.

"Additional Rent" has the meaning given to it in Section 4.2(b).

"Assignment Agreement" shall mean the Assignment Agreement entered into as of the date hereof, between the Authority and The Farmers Bank of Appomattox, relating to the

assignment by the Authority of its rights under the Ground Lease and this Lease Agreement, and any and all amendments thereto as acknowledged and consented to by the County and the School Board.

“Authority” shall mean the Economic Development Authority of Appomattox County, Virginia, a political subdivision of the Commonwealth of Virginia, its successors and assigns.

“Basic Agreements” shall mean the Ground Lease, the Bond Purchase Agreement, the Assignment Agreement, and this Lease Agreement.

“Basic Rent” shall mean the payments payable by the County pursuant to Section 4.2(a) during the Lease Term.

“Board of Supervisors” shall mean the Board of Supervisors of Appomattox County, Virginia, as the governing body of the County.

“Bond” or **“Bonds”** shall mean the Authority’s Lease Revenue Bond, Series 2021 issued pursuant to the Bond Purchase Agreement to finance the Projects.

“Bondholder” shall initially mean The Farmers Bank of Appomattox, as the purchaser of the Bond, and subsequently its successors and assigns.

“Bond Purchase Agreement” shall mean that certain Bond Purchase Agreement among the Authority, the County, and the Bondholder, dated as of September 1, 2021.

“Code” shall mean the Internal Revenue Code of 1986, as amended, including applicable regulations, rulings and revenue procedures promulgated thereunder or under the Internal Revenue Code of 1954, as amended.

“County” shall mean the County of Appomattox, Virginia.

“Environmental Laws” shall mean all federal, state and local laws (including common or decisional law), statutes, ordinances and regulations relating to pollution or protection of human health or the environment (including without limitation ambient air, surface, water, ground water, wetlands, land surface or subsurface strata), including without limitation laws and regulations relating to emissions, discharges, releases or threatened releases of Hazardous Materials or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials. Environmental Laws include but are not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (**“CERCLA”**), the Federal Insecticide, Fungicide and Rodenticide Act, as amended (**“FIFRA”**), the Resource Conservation and Recovery Act, as amended (**“RCRA”**) and the Superfund Amendments and Reauthorization Act of 1986, as amended (**“TSCA”**).

“Environmental Liabilities” shall mean any and all obligations to pay the amount of any judgment or settlement, the cost of complying with any settlement, judgment or order for injunctive or other equitable relief, the cost of compliance, cleanup, remediation, response or other corrective action in response to any notice, demand or request from a governmental authority, the amount of any civil penalty or criminal fine, and any court costs and reasonable

amounts for attorney's fees, fees for witnesses and experts, and costs of investigation and preparation for defense of any claim or proceeding, regardless of whether such proceeding is threatened, pending or completed, that have been or may be asserted against or imposed upon the Authority, the County or the Leased Property and arise out of:

(a) Failure of the County or the Leased Property to comply at any time with all Environmental Laws;

(b) Presence of any Hazardous Materials on, in, under, at or in any way affecting the Leased Property at any time;

(c) A release at any time of any Hazardous Materials on, in, at, under or in any way affecting the Leased Property or at, on, in, under or in any way affecting any adjacent site or facility;

(d) Identification of the Authority or the County as a potentially responsible party under CERCLA or under any Environmental Law similar to CERCLA;

(e) Presence of any above-ground and/or underground storage tanks, as defined in RCRA or in any applicable Environmental Law on, in, at, under or in any way affecting the Leased Property or on, in, at, under or in any way affecting any adjacent site or facility; or

(f) Any and all claims for injury or damage to persons or property arising out of exposure to Hazardous Materials originating at the Leased Property or resulting from operation thereof or located at the Leased Property or any adjoining property.

"Ground Lease" shall mean the Ground Lease between the School Board and the Authority, entered into as of the date hereof, and any and all amendments thereto.

"Hazardous Materials" shall mean chemicals, pollutants, contaminants, wastes and toxic substances, including without limitation:

(a) Solid or hazardous waste, as defined in RCRA or in any Environmental Law;

(b) Hazardous substances, as defined in CERCLA or in any Environmental Law;

(c) Chemical substances and mixtures, as defined in TSCA or in any Environmental Law;

(d) Pesticides, as defined in FIFRA or in any Environmental Law; and

(e) Crude oil or fractions thereof, gasoline or any other petroleum product or byproduct, polychlorinated biphenols, asbestos, urea formaldehyde, fluorinated hydrocarbons and radon.

“Lease Agreement” shall mean this Lease Agreement and any and all amendments hereto.

“Lease Term” shall mean the duration of the leasehold estate created in the Leased Property as provided in Section 4.1.

“Leased Property” shall mean the real estate and building improvements known as the County High School building property, as further described in **Exhibit A** to the Ground Lease and **Exhibit B** to this Lease Agreement.

“Net Proceeds” shall mean the gross proceeds from any insurance recovery or condemnation or eminent domain award in connection with the Leased Property less payments for attorney’s fees and other expenses incurred in the collection of such gross proceeds.

“Payment of Basic Rent” shall mean payment in full of all Basic Rent due and to become due to and including May 1, 2042.

“Permitted Encumbrances” shall mean, as of any particular time as to the Leased Property, (a) liens for taxes and special assessments not then delinquent, (b) liens for taxes and assessments which are delinquent but the validity of which is being contested in good faith and with respect to which the County shall have set aside adequate reserves, unless thereby any of the Leased Property or the interest of the County therein may be in danger of being lost or forfeited, (c) this Lease Agreement and any security interests or other liens created thereby, (d) mechanics’ and materialmen’s liens incident to construction or maintenance now or hereafter filed of record which are being contested in good faith and have not proceeded to judgment, provided that the County shall have set aside adequate reserves with respect thereto, (e) restrictions, mineral rights, easements, rights of way, exceptions or reservations for the purpose of utilities (including but not limited to water and gas pipelines, sanitary and storm sewers, telephone lines, telegraph lines, power lines, substations and other facilities and equipment used in connection with such utilities), roads, streets, alleys, highways, railroads, dikes, canals, laterals, ditches, and other like purposes, or for the joint or common use of real property, in each case which do not materially impair the use of the Leased Property for the purposes for which it is or may reasonably be expected to be held, (f) such defects, irregularities, encumbrances, easements, rights of way and clouds on title as normally exist with respect to property owned or leased by the County for essential governmental purposes and similar in character to the Leased Property and as will not, in an opinion of the County Attorney, impair the use of the Leased Property affected thereby for the purpose for which it is or may reasonably be expected to be held by the County (and must be in form and substance reasonably acceptable to the Bondholder), (g) present or future zoning laws and ordinances, and (h) liens, property interests and rights related to the Bond or any Additional Bonds or Additional Notes.

“Projects” shall mean the financing of a portion of capital needs for the County in connection with school facilities in the County, including, but not limited to, renovations to Appomattox High School and costs of issuance related to the Bond.

Section 1.2 Rules of Construction. The following rules shall apply to the construction of this Lease Agreement unless the context otherwise requires:

(a) Words importing the singular number shall include the plural number and vice versa.

(b) Words importing the redemption or calling for redemption of the Bond shall not be deemed to refer to or connote the payment of the Bond at its stated maturity.

(c) Unless otherwise indicated, all references herein to particular Articles or Sections are references to Articles or Sections of this Lease Agreement.

(d) The headings and Table of Contents herein are solely for convenience of reference and shall not constitute a part of this Lease Agreement nor shall they affect its meaning, construction or effect.

All references herein to payment of the Bond are references to payment of principal of and premium, if any, and interest on the Bond.

ARTICLE II. REPRESENTATIONS

Section 2.1 Representations by Authority. The Authority makes the following representations:

(a) The Authority is a political subdivision of the Commonwealth of Virginia duly created by an ordinance of the County pursuant to the Act;

(b) The undertaking by the Authority (i) to finance a portion of the costs of the Projects and (ii) to lease the Leased Property to the County, has been authorized, in compliance with the Act and the Authority's Bylaws, by the affirmative vote of not less than a majority of the members of the Authority present during an open meeting at which a quorum was present and acting throughout;

(c) Pursuant to the Act, the Authority has full power and authority to enter into the Basic Agreements and to perform the transactions contemplated thereby and to carry out its obligations thereunder and by proper action has duly authorized, executed and delivered the Basic Agreements and has issued the Bond;

(d) The execution, delivery and compliance by the Authority with the terms and conditions of the Basic Agreements will not conflict with or constitute or result in a default under or violation of, (1) the Act, the Authority's Bylaws or the ordinance creating the Authority, (2) any existing law, rule or regulation applicable to the Authority, or (3) any indenture, mortgage, deed of trust, lien, lease, contract, note, order, judgment, decree or other agreement, instrument or other restriction of any kind to which the Authority or any of its assets is subject;

(e) No further approval, consent or withholding of objection on the part of any regulatory body or any official, federal, state or local, is required in connection with the

execution or delivery of or compliance by the Authority with the terms and conditions of the Basic Agreements;

(f) There is no litigation at law or in equity or any proceeding before any governmental agency involving the Authority pending or, to the knowledge of the Authority, threatened with respect to (1) the creation and existence of the Authority, (2) its authority to execute and deliver the Basic Agreements or the Bond, (3) the validity or enforceability of the Basic Agreements or the Authority's performance of its obligations thereunder, (4) the title of any officer of the Authority executing the Basic Agreements or the Bond, or (5) the power to finance the Projects; and

(g) The Authority is the owner of a leasehold estate in the Leased Property granted by the Ground Lease, which leasehold estate is being leased to the County pursuant to this Lease Agreement.

Section 2.2 Representations by County. The County makes the following representations:

(a) The County is a county and political subdivision of the Commonwealth of Virginia;

(b) The lease of the Leased Property to the County pursuant to this Lease Agreement will provide for the acquisition or has provided for the acquisition of certain capital projects that will serve functions which are essential to the proper operations of the County and the welfare of its residents;

(c) The County has full power and authority to enter into the Basic Agreements to which it is a party and to perform the transactions contemplated thereby and to carry out its obligations thereunder and by proper action has duly authorized, executed and delivered such Basic Agreements;

(d) The County is not in default in the payment of the principal of or interest on any of its indebtedness for borrowed money and is not in default under any instrument under or subject to which any indebtedness for borrowed money has been incurred, and no event has occurred and is continuing that with the lapse of time or the giving of notice, or both, would constitute or result in an event of default thereunder;

(e) The County is not in default under or in violation of, and the execution, delivery and compliance by the County with the terms and conditions of the Basic Agreements to which it is a party will not conflict with or constitute or result in a default under or violation of, (1) any existing law, rule or regulation applicable to the County, or (2) any indenture, mortgage, deed of trust, lien, lease, contract, note, order, judgment, decree or other agreement, instrument or restriction of any kind to which the County or any of its assets is subject, and no event has occurred and is continuing that with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation;

(f) No further approval, consent or withholding of objection on the part of any regulatory body or any official, federal, state or local, is required in connection with the

execution or delivery of or compliance by the County with the terms and conditions of the Basic Agreements to which it is a party;

(g) There is no litigation at law or in equity or any proceeding before any governmental agency involving the County pending or, to the knowledge of the County, threatened with respect to (1) the authority of the County to execute and deliver the Basic Agreements to which it is a party, (2) the validity or enforceability of such Basic Agreements or the County's performance of its obligations thereunder, (3) the title of any officer of the County executing such Basic Agreements, (4) the power to finance a portion of the costs of the Project, or (5) that will materially or adversely affect the County's financial condition or ability to occupy the Leased Property;

(h) There are no present or, nor to the knowledge of the County, past actions, activities, circumstances, conditions, events or incidents, including without limitation, any release of any Hazardous Materials which have not been appropriated, remediated or addressed, that could form the basis for assertion of any Environmental Liability with respect to the Leased Property against the County or the Authority. The County will comply with all Environmental Laws applicable to the County and the Leased Property, as they may exist from time to time. The County has not received any communication in any form from any governmental environmental authority alleging that the County, with respect to the Leased Property is not in compliance with any Environmental Law; and

(i) Until termination of the Lease Term, the County intends to operate the Leased Property, or to cause it to be operated, as described in this Lease Agreement or for any other use which is permissible under the Act, the Code and the Code of Virginia of 1950, as amended. The County will not use or occupy the Leased Property or permit any portion thereof to be used or occupied (i) contrary to any law or regulation in effect now or in the future (and without regard to any change of government policy) or (ii) in any manner which will (a) cause structural injury to any part of the Leased Property, (b) cause the value or the usefulness of the Leased Property to diminish (ordinary wear and tear excepted), (c) constitute a public or private nuisance or (d) result in waste to the Leased Property; nor will it do or permit anything to be done on or about the Leased Property that will affect, impair or contravene any policies of insurance that may be carried on the Leased Property or with respect to its use, or adversely impact the tax-exempt status of interest on the Bond or any Additional Bonds or Additional Notes for federal income tax purposes, if applicable, or the bank qualified status of the Bond.

ARTICLE III.

ACQUISITION OF THE PROJECTS AND LEASING OF THE PROPERTY

Section 3.1 Demise of Leased Property. The Authority demises and leases to the County for use by the School Board and the County leases from the Authority, the Leased Property, for the term set forth in Section 4.1 and the Basic Rent and Additional Rent and in accordance with the terms of this Lease Agreement. The Authority hereby agrees to perform the obligations imposed upon it as lessee under the Ground Lease. Subject to the provisions of Articles VI and VII, the School Board and the County shall be entitled to possession of the Leased Property during the term of this Lease Agreement.

Section 3.2 Agreement to Acquire, Construct, Renovate, Equip, Install and Furnish the Projects. Contemporaneously with the execution and delivery hereof, the Authority shall issue the Bond to finance the Projects, which amount, together with other funds of the County, the County reasonably believes to be sufficient to complete such portions of the Projects.

The costs and expense of the performance by the Authority of any of its obligations under the Lease Agreement will be limited to the availability of the proceeds of the Bond issued for such purpose, or any Net Proceeds or from other funds provided by the County for such purposes.

THE AUTHORITY MAKES NO REPRESENTATION OR WARRANTY THAT THE COUNTY OR THE SCHOOL BOARD WILL HAVE QUIET AND PEACEFUL POSSESSION OF THE LEASED PROPERTY, except that the Leased Property is each free from encumbrances done, made or knowingly suffered by the Authority or anyone claiming by, through or under it.

The County or the School Board, as appropriate, as agent for the Authority, obtained or caused to be obtained all permits, approvals and consents necessary for completion of the Projects. Upon request of the Bondholder, the County shall provide copies of such permits, approvals and consents.

In order to effectuate the purposes of this Lease Agreement, the County or the School Board, as appropriate, as agent for the Authority, has made, executed, acknowledged and delivered, or caused to be made, executed, acknowledged and delivered, all contracts, orders, receipts, writings and instructions, in the name of the County, the School Board or otherwise, with or to other persons, firms or corporations, and in general has done or caused to be done all such other things as may be requisite or proper for the reimbursement costs of certain capital expenditures of the Projects and fulfillment of the obligations of the County under this Lease Agreement.

The County recognizes that since the Leased Property has been designed, acquired, constructed, equipped and furnished at the County's or the School Board's request and by contractors and suppliers selected by the County or the School Board in accordance with plans and specifications prepared by architects or engineers selected by the County or the School Board, **THE AUTHORITY MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION OR WORKMANSHIP OF ANY PART OF THE LEASED PROPERTY OR ITS SUITABILITY FOR THE COUNTY'S OR SCHOOL BOARD'S PURPOSE OR NEEDS.**

In the event of default of any contractor or subcontractor under any construction contract in connection with the Leased Property, the County (or the School Board) will promptly proceed, either separately or in conjunction with others, to exhaust the remedies of the Authority or the County (or the School Board), as agent for the Authority, against the contractor or subcontractor in default and against each surety for the performance of such contractor. The County agrees to advise the Authority and the Bondholder, in writing, of the steps it intends to take in connection with any such default. The County (or the School Board) may, in good faith and at the expense

of the County (or the School Board) in its own name or in the name of the Authority, by notice from the County (or the School Board) to the Authority and the Bondholder, prosecute or defend any action or proceeding or take any other action involving such contractor, subcontractor or surety which the County deems reasonably necessary, and in such event the Authority hereby agrees to cooperate fully with the County and the School Board. Any amounts recovered by way of damages, refunds, adjustments or otherwise, net of reasonable expenses related thereto, in connection with the foregoing shall be paid subject to any requirements of the Code, to the County or the School Board, to reimburse the County or the School Board, as applicable, for any costs it incurred in connection with the foregoing and then to the Bondholder for repayment of the Bond or any Additional Bonds.

ARTICLE IV.
LEASE TERM; PAYMENT OF RENTALS;
MAINTENANCE; INSURANCE; CERTIFICATION AND TAXES

Section 4.1 Lease Term. The Lease Term shall commence on the date of execution hereof and, unless sooner terminated in accordance with the provisions hereof, shall terminate at the later of (a) 11:59 p.m. on May 1, 2042, or (b) if all payments required by this Lease Agreement or in respect of the Bond (including any Additional Bonds or Additional Notes) have not been made on such date, the date on which all such payments shall have been made.

Section 4.2 Rental Payments.

(a) The County shall pay the Basic Rent to the Bondholder on behalf of the Authority, subject to Section 4.5, as shown on **Exhibit A**. During the Lease Term, commencing on May 1, 2022, and each May 1 and November 1 thereafter during the Lease Term the County shall pay Basic Rent in the amount shown in the column "Payments" for the Bond on **Exhibit A** hereto as it may be amended on the date such Basic Rent is due and subject to adjustment upon a Determination of Taxability (as defined in the Bond). Each Basic Rent Payment, which shall include an interest component (under the column labeled "Interest," subject to adjustment as described in the preceding sentence), may include a principal component (under the column labeled "Principal") as set forth on **Exhibit A**, and shall be paid in lawful money of the United States of America. In the event the County fails to make any Basic Rent payments when due, interest on the principal component of such Basic Rent shall accrue from such date until paid at the rate per annum that will yield the amount necessary to pay interest due on the Bond on the date the late payment of Basic Rent is made. Interest components of Basic Rent may be adjusted as provided in the Bond.

(b) The County shall also pay when due any additional rent ("**Additional Rent**") which shall include amounts under Section 4.2(b), Section 4.2(c), Section 4.3 and Section 6.6 hereunder, as applicable, and otherwise as required by any obligations or agreements made hereunder or in connection with the Bond Purchase Agreement, including but not limited to any amounts due to the United States of America as required by the arbitrage rebate requirements of Section 148 of the Code applicable to the Bond (**the "Rebate Amount"**). The County shall, if necessary, calculate and timely pay as Additional Rent the Rebate Amount, if any, in amounts required by Section 148 of the Code and regulations promulgated thereunder, and the County and the Authority covenant to comply with all applicable requirements in this regard. The obligations of the County to make the payments of Basic Rent and Additional Rent,

if any, and to perform and observe the other obligations and agreements contained herein shall be absolute and unconditional except as provided in Section 4.5.

(c) If the County fails to make any payment of Basic Rent or Additional Rent within 15 days after the date on which such payment(s) is due and payable hereunder, the County shall pay a late payment charge equal to five percent (5.00%) of the overdue payment(s).

Section 4.3 Prepayment of Rentals; Option To Purchase. The County may, at any time at its option, make prepayments in whole or in part of all then outstanding principal components of Basic Rent corresponding to the Bond, at any time, upon fifteen (15) business days' prior written notice to the Bondholder, upon payment of interest accrued to the redemption date and 100% of the outstanding principal amount of the Bond to be prepaid. The Bondholder shall apply the amounts so prepaid in such manner as shall be consistent with the provisions hereof to redeem, prepay or defease the Bond. Any such prepayment of principal components of Basic Rent paid plus interest accrued to the redemption or prepayment date and such prepayment penalty, if any, shall be considered as Additional Rent hereunder.

Section 4.4 Additional Bonds and Additional Notes. Subject to the Bondholder's prior written consent Additional Bonds and Additional Notes may be issued pursuant to a supplemental lease agreement and shall be equally and ratably secured with the Bond without preference, priority or distinction; provided, however, that any moneys in any debt service reserve account that may be established shall secure only the applicable bond or note to which it applies, and provided further that any particular bonds or notes may have other security pledged to their payment.

Section 4.5 Appropriations of Basic Rent and Additional Rent, if any; Declaration of Essentiality. The Board of Supervisors reasonably believes that funds sufficient to make all payments of Basic Rent and Additional Rent during the term of this Lease Agreement can be obtained. While recognizing that it is not empowered to make any binding commitment to make payments of Basic Rent and Additional Rent, if any, beyond the current fiscal year, the Board of Supervisors in authorizing the execution of this Lease Agreement has stated its intent to make annual appropriations sufficient to make the payments of Basic Rent and Additional Rent, if any, and it has recommended that future Boards of Supervisors continue to do so during the term of this Lease Agreement.

The Board of Supervisors hereby declares the nature of the Leased Property essential to the efficient operation of the County. The Board of Supervisors anticipates that the need for the Leased Property will not change during the term of this Lease Agreement. Notwithstanding anything in this Lease Agreement to the contrary, the County's obligations to pay the cost of performing its obligations under this Lease Agreement, including without limitation its obligations to pay all Basic Rent and Additional Rent, shall be subject to and dependent upon appropriations being made from time to time by the Board of Supervisors for such purpose; provided, however, that the County Administrator or other officer charged with the responsibility for preparing the County's annual budget shall include in the budget for each fiscal year the amount of the Basic Rent and Additional Rent, if any, due during such fiscal year. Throughout the Lease Term, the County Administrator shall deliver to the Bondholder and the Authority within ten days after the adoption of the budget for each fiscal year, but not later than July 10th, a certificate stating whether an amount equal to the Basic Rent and Additional Rent which will be

due during the fiscal year beginning July 1st has been appropriated by the Board of Supervisors in such budget. If, by July 15, the Board of Supervisors has not appropriated Basic Rent for the then current Fiscal Year, the County Administrator shall give written notice to the Board of Supervisors of the consequences of such failure to appropriate, including the right of the Bondholder to terminate this Lease Agreement in accordance with Article VII.

Section 4.6 Insurance. The County (or the School Board, as appropriate) shall continuously maintain or cause to be maintained insurance against such risks and in such amounts as are customary for public bodies owning similar projects, including without limitation:

- (a) public liability insurance to the extent of \$1,000,000 per occurrence against liability for bodily injury, including death resulting therefrom, and for damage to property, including loss of use thereof, arising out of the ownership, operation or occupation of the Leased Property;

- (b) workers' compensation insurance with respect to the Leased Property;

- (c) coverage to the extent of the full replacement cost of the Leased Property against loss or damage by fire or lightning, with broad form extended coverage, including damage by windstorm, explosion, aircraft, smoke, sprinkler leakage, vandalism, malicious mischief and such other risks as are normally included within such coverage (limited only as may be provided in the standard form for such coverage at the time in use in the Commonwealth of Virginia), provided that during the period of construction of portions of the Leased Property, the County may provide or cause to be provided in lieu of the insurance set forth above builders' risk or similar type of insurance to the full replacement cost thereof minus site work not normally insured; and

- (d) comprehensive automobile liability insurance against liability for bodily injury, including death resulting therefrom, and for damage to property, including loss of use thereof, arising out of the ownership, maintenance or use of the Leased Property.

All such insurance shall be taken out and maintained with generally recognized responsible insurers selected by the County (or the School Board) and acceptable to the Bondholder and may be written with deductible amounts comparable to those on similar policies carried by other public bodies owning and operating similar facilities. The Bondholder may request an increase of coverages on a reasonable basis. If any such insurance is not maintained with an insurer licensed to do business in Virginia or placed pursuant to the requirements of the Virginia Surplus Lines Insurance Law Article, Chapter 48, Title 38.2, Code of Virginia of 1950, as amended, or any successor provision of law, the County shall provide evidence reasonably satisfactory to the Bondholder that such insurance is enforceable under the laws of the Commonwealth of Virginia. In each policy, other than policies of workers' compensation insurance, the Bondholder and the Authority shall be named as additional insureds to the extent their interests may appear. The policies of insurance required by subsection (c) above shall require that all Net Proceeds resulting from any claims be paid to the Bondholder and the County (or the School Board, as appropriate). The County hereby irrevocably assigns, transfers and sets over to the Bondholder all right, title and interest of the County, in such Net Proceeds; provided, however, if the Net Proceeds payable under any one claim shall not exceed \$250,000 and no

event has occurred or is continuing that constitutes or that, by notice or lapse of time, or both, would constitute an Event of Default under this Lease Agreement, such Net Proceeds shall be paid to the County to be used for purposes set forth in Section 5.1(b)(1) or (2).

All such policies shall be deposited with the Bondholder, provided that in lieu of such policies there may be deposited with the Bondholder and the Authority a certificate or certificates of the respective insurers attesting to the fact that the insurance required by this Section is in full force and effect. Prior to the expiration of any such policy, the County (or the School Board, as appropriate) shall furnish the Bondholder and the Authority evidence satisfactory to the Bondholder and the Authority that the policy has been renewed or replaced or is no longer required by this Lease Agreement. Unless a policy with such an undertaking is available only at a cost which the County (or the School Board, as appropriate), with the approval of the Bondholder, determines to be unreasonable, each policy shall contain an undertaking by the insurer (in form commercially reasonable for similar insurers) that such policy shall not be modified adversely to the interests of the Bondholder or the Authority or cancelled without at least 30 days' prior notice to the Bondholder and the Authority.

In lieu of policies of insurance written by commercial insurance companies meeting the requirements of this Section, the County (or the School Board, as appropriate) may maintain a program of self-insurance or participate in group risk financing programs, risk pools, risk retention groups, purchasing groups and captive insurance companies, and in state or federal insurance programs; provided, however, that such alternative is reasonably acceptable to the Bondholder (based on a favorable written opinion of an independent insurance consultant having a favorable reputation for skill and experience in such work).

To the extent losses for any damage to the Leased Property, however caused, are paid from the Net Proceeds of any insurance required by this Section, no claim shall be made and no suit shall be brought against the County (or the School Board, as appropriate) by the Bondholder or anyone else claiming by, through or under it.

Section 4.7 Maintenance; Expenses of Maintenance; Taxes. Subject to Sections 4.5, 5.1 and 5.2, the County shall cause the School Board to maintain, preserve and keep the Leased Property, or cause the Leased Property, to be maintained, preserved and kept, in good condition. The County and the School Board shall not abandon the Leased Property, during the Lease Term except pursuant to Section 7.1. Subject to Section 4.5, the County or the School Board shall pay or cause to be paid, in addition to Additional Rent, all of the expenses of maintenance and operation of the Leased Property. The County shall pay or cause the School Board to pay any and all taxes and assessments payable with respect to the Leased Property.

Section 4.8 Net Lease. This Lease Agreement shall be deemed and construed to be a net lease, and during the Lease Term, the County shall pay Basic Rent and Additional Rent, if any, free of all deductions, diminutions and set-offs, and without abatement for casualty, loss of title, condemnation or any other reason whatsoever.

Section 4.9 Proof of Payment of Taxes, etc. The County shall pay (or cause the School Board to pay) all and furnish the Bondholder or the Authority, upon request, proof of payment of any taxes, utility charges, insurance premiums, or other charges or payments required to be paid by the County or the School Board under this Lease Agreement.

Section 4.10 No Encumbrances. The County shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, or the rights of the County and the Authority as herein provided, other than Permitted Encumbrances. Subject to Section 4.5, the County shall promptly and duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above if the same shall arise at any time.

Section 4.11 Installation of County's Own Furnishings and Equipment. The County and the School Board may from time to time, in its discretion and at its own expense, install furnishings and equipment at the Leased Property not financed with proceeds of the Bond. All furnishings and equipment so installed by the County shall remain property of the County or the School Board as appropriate in which neither the Authority nor the Bondholder shall have any interest and may be modified or removed at any time while the County is not in default under this Lease Agreement, except that all such furnishings and equipment shall be subject to a landlord's lien to the extent permitted under the laws of the Commonwealth of Virginia. Nothing contained in this Section shall prevent the County or the School Board from purchasing furnishings and equipment and creating purchase money security interests therein pursuant to the Uniform Commercial Code of Virginia as security for the unpaid portion of the purchase price thereof, and each such security interest with respect to furnishings and equipment purchased by it under the provisions of this Section after the delivery of the Assignment Agreement shall, if appropriate financing statements are duly filed for record simultaneously with or prior to the installation of the Leased Property, or the furnishings and equipment covered thereby, be prior and superior to such landlord's lien. The County or School Board, as appropriate, shall pay as due the purchase price of and all costs and expenses with respect to the acquisition and installation of any furnishings and equipment installed by it pursuant to this Section.

Section 4.12 Transfer at End of Lease Term. The Authority's leasehold estate in the Leased Property shall be transferred, conveyed and assigned to the County after payment by the County of all payments then due and thereafter to become due through and including, May 1, 2042 (or as may be extended under a Supplemental Lease Agreement), whether pursuant to Section 4.2 or 4.3, and Additional Rent, if any, subject to the taking of any actions required by law prior to such consequence, transfer or assignment.

Section 4.13 Use of Proceeds. Neither the County, the School Board nor the Authority shall knowingly (a) take any action, or approve the making of any investment or use of the proceeds of the Bond (including failure to spend the same with due diligence) or taking any other action, which would cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code or (b) barring unforeseen circumstances, approve the use of the proceeds from the sale of the Bond otherwise than in accordance with the Authority's "non-arbitrage" certificate given immediately prior to the issuance of the Bond.

Section 4.14 Preservation of Tax-Exempt Status of Interest, Representation, Warranties and Covenants.

(a) General. The County shall not (and shall cause the School Board to not) sublease the Leased Property, or any portion thereof, to any entity other than the Commonwealth of Virginia, a city, a county or a town, or any agency or political subdivision thereof, without an

opinion of Bond Counsel that such sublease or other availability would not adversely affect the status of the portion of the Basic Rent representing interest allocable to the Bond as provided in Section 4.2 for federal income tax purposes. The County shall (or cause the School Board to) send notice to the Bondholder and the Authority of any sublease of the Leased Property or any portion thereof within 30 days of entering into such sublease. The County and the Authority covenant that the Leased Property shall not be used in a manner that would permit the proceeds of the Bond to be used in any manner that would result in (a) 10% or more of such proceeds being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, provided that no more than 5% of such proceeds may be used in a trade or business unrelated to the County's or the School Board's use of the Leased Property, (b) 5% or more of such proceeds being used with respect to any "output facility" (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bond from being includable in the gross income for Federal income tax purposes of the registered owner thereof under existing law, the County, the School Board and the Authority need not comply with such covenants.

(b) **Incorporation of Tax and Non-Arbitrage Certificate.** Lessee hereby makes each of the representations, warranties and covenants contained in the Tax and Non-Arbitrage Certificate delivered with respect to the Bond. By this reference each such Tax and Non-Arbitrage Certificate is incorporated in and made a part of this Lease Agreement.

Section 4.15 Certification as to Environmental Liabilities. To the extent permitted by law, the County agrees to defend, indemnify and save harmless the Authority and the Bondholder from and against any and all Environmental Liabilities to which the Authority or the Leased Property is or may become subject or which may be alleged or asserted against the Bondholder.

Section 4.16. Recording and Filing. The County will, at its expense, record a counterpart of this Lease Agreement, the Ground Lease and the Assignment Agreement in the Office of the Clerk of the Circuit Court of Appomattox County, Virginia, on or before the date of delivery of the Bond or as otherwise directed by the Bondholder.

Section 4.17. Subletting by County.

(a) Subject to Section 4.14, the County or the School Board may sublease space in the Leased Property without the consent of the Authority and the Bondholder; provided, however, that no sublease will be made if it would (i) have any adverse effect upon or affect or reduce the County's obligations under this Lease Agreement, (ii) be to a party that could not under the Act be the lessee from the Authority of all or any portion of the Leased Property, or (iii) be contrary to law.

(b) Before any sublease is made, the County will cause to be delivered to the Authority and the Bondholder an opinion of Bond Counsel that the use of such portion of the

Leased Property by the sublessee will not cause the interest on any of the Bond to be included in gross income for purposes of federal income taxation.

(c) No sublease will relieve the County from primary liability for any of its obligations under this Lease Agreement, and the County will continue to remain primarily liable for the payment of Basic Rent and for the observance and performance of all of the County's other agreements under this Lease Agreement in accordance with, and subject to, its terms, including without limitation, the non-appropriation provisions hereof.

(d) Each sublessee pursuant to this Section will, to the extent of the interest subleased to it, in writing (i) assume and agree to perform the obligations of the County under this Lease Agreement and (ii) agree to attorn to the Authority and any other successor in interest to the Authority (whether pursuant to this Lease Agreement, the Assignment Agreement or otherwise).

(e) The County will promptly deliver or cause the School Board to promptly deliver executed counterparts of each sublease pursuant to this Section to the Authority and the Bondholder.

ARTICLE V. DAMAGE, DESTRUCTION OR CONDEMNATION

Section 5.1 Damage or Destruction.

(a) The County shall notify the Bondholder and the Authority immediately in the case of damage to or destruction from fire or other casualty of the Leased Property, or any portion thereof during the Lease Term in an amount that the County determines in good faith will cost more than \$100,000 to repair, reconstruct and restore. If the County determines in good faith that such cost will not exceed \$250,000, the County, shall (1) retain the Net Proceeds with respect to such damage or destruction, (2) forthwith repair, reconstruct and restore such portion of the Leased Property so damaged or destroyed to substantially the same condition as it had existed prior to the event causing such damage or destruction, and (3) apply Net Proceeds retained by it to the payment or reimbursement of the costs of such repair, reconstruction and restoration. If such Net Proceeds are not sufficient to pay in full the cost of such repair, reconstruction and restoration, the County shall, subject to Section 4.5, pay so much thereof as is in excess of such Net Proceeds.

(b) If the Leased Property, or any portion thereof is damaged or destroyed by fire or other casualty during the Lease Term and the County determines in good faith that the cost of repairing, reconstructing and restoring such damage or destruction will exceed \$250,000 then the County shall, upon the following conditions and within 90 days after the date such damage or destruction occurs, elect one of the following two options by giving notice of such election to the Bondholder and the Authority, and the Bondholder shall disburse such Net Proceeds in accordance with the option so elected:

(1) **Option A - Repair and Restoration.** The County may elect to repair, reconstruct and restore the Leased Property. If the County elects this Option A, then the County shall proceed forthwith to repair, reconstruct and restore the Leased Property to

substantially the same condition as had existed prior to the event causing such damage or destruction, with such alterations and additions as the County may determine to be necessary or desirable and as will not impair the capacity or character of the Leased Property, for the purposes for which it had been used prior to such damage or destruction or is intended to be used. Upon any election of this Option A, the County and the Bondholder shall deposit all Net Proceeds held by it to such damage or destruction in a special account that shall be created by the Bondholder for the portion of the Leased Property as to which such Net Proceeds had been paid to the County. So long as the County is not in default under this Lease Agreement, the Bondholder, upon receipt of request of the County may apply so much as may be necessary of such Net Proceeds to payment of the cost of such repair, reconstruction and restoration, either on completion thereof or as the work progresses. If such Net Proceeds are not sufficient to pay in full the cost of such repair or reconstruction, the County shall pay, subject to Section 4.5, within 45 days of receipt of such Net Proceeds, so much of the cost thereof as may be in excess of such Net Proceeds to the Bondholder. The County shall not by reason of the payment of such excess cost be entitled to any (A) interest in the Leased Property which it did not possess prior to such payment, (B) reimbursement from the Authority or the Bondholder, or (C) abatement or diminution of Basic Rent or Additional Rent.

(2) **Option B - Prepayment of Basic Rent.** The County may elect to have such Net Proceeds applied to the prepayment of all of the principal component of Basic Rent, plus interest accrued to the date of prepayment set forth in Section 4.3, and after such election the Bondholder shall (upon receiving such Net Proceeds) redeem the Bond.

Section 5.2 Condemnation and Loss of Title.

(a) In the case of a taking of all or any part of the Leased Property or any right therein under the exercise of the power of eminent domain or any loss of all or any part of the Leased Property because of loss of title thereto, or the commencement of any proceedings or negotiations which might result in such a taking or loss, the party upon whom notice of such taking is served or with whom such proceedings or negotiations are commenced or who learns of a loss of title shall give prompt notice to the other and to the Bondholder. Each such notice shall describe generally the nature and extent of such condemnation, taking, loss, proceedings or negotiations. All obligations of the County under this Lease Agreement (except obligations to pay Basic Rent when due) shall terminate as to the Leased Property or portion thereof as to which there is a loss of title or which is condemned or taken when such loss of title is finally adjudicated or when title thereto vests in the party condemning or taking the same, as the case may be (hereinafter referred to as the **"Termination Date"**). The County shall pay over to the Bondholder (and hereby irrevocably assigns, transfers and sets over to the Bondholder) all right, title and interest of the County in and to any Net Proceeds payable as to any such loss of title, condemnation or taking during the Lease Term. The Bondholder shall hold such Net Proceeds in accordance with the Bond Purchase Agreement for disbursement or use by the County in accordance with the option so elected:

(b) In the event of any such loss of title, condemnation or taking, the County shall, upon the following conditions and within 90 days after the termination date therefor, elect either or both of the following two options by giving notice of such election to the Bondholder and the Authority:

(1) **Option A - Repairs, Restoration and Improvements.** The County may elect to have the Net Proceeds as to such loss of title, condemnation or taking used to repair, restore or reconstruct the Leased Property as to which there has been a loss of title, condemnation or taking to substantially its condition prior to such loss of title, condemnation or taking. Upon any exercise of this Option A, the Bondholder and the County shall deposit any such Net Proceeds held by it in a special account that shall be created by the Bondholder for the Leased Property as to which such Net Proceeds had been paid to the Bondholder. So long as an Event of Default has not occurred and is not continuing, the Bondholder, upon receipt of request from the County shall apply so much as may be necessary of the Net Proceeds received by it on account of such loss of title, condemnation or taking to payment of such repair, reconstruction or restoration (either on completion thereof or as the work progresses). If such Net Proceeds are not sufficient to pay in full the cost of such restoration, the County shall pay, subject to Section 4.5, within 90 days of receipt of such Net Proceeds, so much of the cost thereof as may be in excess of such Net Proceeds to the Bondholder. The County shall not by reason of the payment of such excess cost be entitled to any (A) interest in the Leased Property which it did not possess prior to such payment, (B) reimbursement from the Authority or the Bondholder, or (C) abatement or diminution of the Basic Rent or additional rent, if any.

(2) **Option B - Prepayment of Basic Rent.** The County may elect to have the Net Proceeds payable as to any such loss of title, condemnation or taking applied to the prepayment of all of the principal component of Basic Rent, interest accrued to the date of prepayment as provided under Section 4.3 hereof, and, after such election, the Bondholder shall (upon receiving such Net Proceeds, to the extent and in the manner provided in the Bond Purchase Agreement and to the extent of such Net Proceeds) such Net Proceeds shall be used to redeem the Bond or portion thereof available to be redeemed by such Net Proceeds.

(c) The Authority and the Bondholder shall, at the expense of the County cooperate fully with the County or the School Board in the contest of any prospective or pending condemnation proceedings or in any contest over title with respect to the Leased Property, or any part thereof and shall, to the extent they may lawfully do so, permit the County or the School Board to litigate, at the expense of the County or the School Board in any such proceeding in the name and behalf of the Authority. In no event shall the Authority settle, or consent to the settlement of, any prospective or pending condemnation proceedings, or proceedings as to title, with respect to the Leased Property or any part thereof without the consent of the County.

Section 5.3 Application of Net Proceeds. The Authority hereby directs the Bondholder to make payments from the proceeds received to pay the costs described in Sections 5.1(b)(1) and 5.2(b)(1).

**ARTICLE VI.
EVENTS OF DEFAULT AND REMEDIES**

Section 6.1 Events of Default.

(a) The following shall be "events of default" under this Lease Agreement, and the terms "event of default" or "default" shall mean, whenever they are used in this Lease Agreement, any one or more of the following events:

(1) Failure of the County to pay when due any payment of Basic Rent or Additional Rent;

(2) Failure of the County to pay when due any payment due under this Lease Agreement, other than payments under Sections 4.2 and 4.3, or to observe and perform any covenant, condition or agreement on its part to be observed or performed, which failure shall continue for a period of 30 days after notice is given, or in the case of any such default that cannot with due diligence be cured within such 30 day period but can be cured within the succeeding 60 days after notice is given, failure of the County to proceed promptly to cure the same and thereafter prosecute the curing of such default with due diligence; or

(3) Bankruptcy or insolvency of the County, the appointment of a receiver of the Leased Property or failure by the County to lift any execution or attachment on the Leased Property, or any portion thereof, which failure shall continue for a period of 60 days after written notice is given, or in the case of any such default that cannot with due diligence be cured within such 60 days period but can be cured within the succeeding 60 days, failure of the County to proceed promptly to cure the same and thereafter prosecute the curing of such default with due diligence.

(b) The provisions of the foregoing subparagraph (a)(2) are subject to the limitation that if by reason of force majeure the County is unable in whole or in part to perform any of its covenants, conditions or agreements hereunder other than those set forth in Sections 4.2, 4.5, 4.6, 4.7, 4.9 and 4.10, the County shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall include without limitation acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States of America or the Commonwealth of Virginia or any political subdivision thereof or any of their departments, agencies or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the County as applicable. The County shall remedy with all reasonable dispatch the cause or causes preventing the County from carrying out its covenants, conditions and agreements, provided that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the County, and the County shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of any opposing party when such course is in the judgment of the County, not in its best interests.

(c) Notwithstanding anything contained in this Section to the contrary, failure by the County to pay when due any payment required to be made under this Lease Agreement or failure by the County to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Lease Agreement resulting from failure of the Board of Supervisors to appropriate moneys for such purposes, as described in Section 4.5, shall not constitute an event of default. Upon any such failure to appropriate, the provisions of Article VII shall be applicable.

Section 6.2 Remedies. Whenever any event of default shall have happened and is continuing, the Authority or the Bondholder, as assignee of the Authority may take any one or more of the following remedial steps, without further demand or notice: (a) declare the entire unpaid principal balance of Basic Rent due and thereafter to become due through and including May 1, 2042, immediately due and payable; (b) reenter and take possession of any part or all of the Leased Property, with or without terminating this Lease Agreement, exclude the County and the School Board from possession and sell or lease the County's leasehold estate in the Leased Property for the account of the County, holding the County liable for all Basic Rent and other payments due up to the effective date of such sale or lease and for the difference between the purchase price, rent and other amounts paid by the purchaser or lessee pursuant to such sale or lease and the rents, interest calculated pursuant to subparagraph (a) above, and the Basic Rent and other amounts payable by the County hereunder; or (c) take whatever action at law or in equity may appear necessary or desirable to collect the Basic Rent then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the County under this Lease Agreement. In any of such cases, all rights and interests created or then existing in favor of the County as against the Authority hereunder shall cease and terminate, and the right to the possession of the Leased Property and all other rights acquired by the County hereunder shall revert to and revest in the Authority without any act of re-entry, or any other act of the Authority to be performed and without any right of the County of return, reclamation or compensation for moneys paid under this Lease Agreement as absolutely, fully and perfectly as if this Agreement and such payments had never been made; and in case of such default all payments theretofore made on this Lease Agreement are to be retained by and belong to the Authority as the agreed and reasonable rent of the Leased Property up to the time of such default. Any amounts received by the Authority pursuant to the foregoing provisions shall be applied first to costs, then to any unpaid interest and then to repayment of principal, and upon payment in full of all amounts due such excess shall be deposited with the Bondholder and credited to the next required payment.

Section 6.3 Reinstatement after Event of Default. Notwithstanding the exercise by the Authority of any remedy granted by Section 6.2, unless the Authority shall have sold its leasehold estate in the Leased Property or shall have entered into an agreement providing for the re-letting of the Leased Property for at least one year, if the balance of the Basic Rent shall have been accelerated pursuant to Section 6.2(a) and all overdue Basic Rent, together with any interest thereon, and all Additional Rent shall have been paid, then the County's default under this Lease Agreement shall be waived without further action by the Authority. Upon such payment and waiver, this Lease Agreement shall be fully reinstated and all Basic Rent payments will be due and payable in accordance with Exhibit A, and the County shall be restored to the use, occupancy and possession of the Leased Property; provided, however, if all or any part of the Leased Property have been re-let for less than one year, the County shall not be restored to the use, occupancy and possession thereof until the end of such lease.

Section 6.4 No Remedy Exclusive. No remedy conferred by this Lease Agreement upon or reserved to the Authority is intended to be exclusive of any other available remedy or remedies, but every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof or acquiescence therein, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 6.5 No Additional Waiver Implied by One Waiver. Failure by the Authority at any time to require performance by the County of any provision hereof shall in no way affect the Authority's right hereunder to enforce the same, nor shall any waiver by the Authority of any breach of any provision hereof be held to be a waiver of any succeeding breach or any such provision, or as a waiver of the provision itself.

Section 6.6 Attorney's Fees and Other Expenses. The prevailing party shall be entitled to reasonable fees of attorneys and other reasonable expenses in any action involved in the enforcement of any obligations under this Lease Agreement.

ARTICLE VII. TERMINATION OF LEASE

Section 7.1 Right to Terminate. If as a result of failure of the Board of Supervisors to appropriate moneys for such purposes, any payments of Basic Rent or Additional Rent are not made when due, either party hereto or the Bondholder as assignee of the Authority shall have the right to terminate this Lease Agreement by giving notice of the exercise of its rights pursuant to this Section to the other party and the Bondholder. If the Authority terminates this Lease Agreement, its notice to the County and the Bondholder shall specify a date not sooner than 30 days and not later than 90 days thereafter for such termination.

Section 7.2 Rights upon Termination. Upon termination of this Lease Agreement, the Authority may exclude the County and the School Board from possession of the Leased Property and sell or lease the County's leasehold estate in the Leased Property, in the manner provided by and subject to Section 6.2(b) and the County must comply with its covenant contained therein.

Section 7.3 Reinstatement after Termination. Notwithstanding any termination of this Lease Agreement in accordance with Section 7.1, this Agreement shall be fully reinstated, and the County shall be restored to the use, occupancy and possession of the Leased Property if the conditions set forth in Section 6.3 are satisfied.

ARTICLE VIII. ASSIGNMENT AGREEMENT; AND AMENDMENTS

Section 8.1 Assignment Agreement. Simultaneously with the execution of this Lease Agreement, the Authority has entered into the Assignment Agreement with the Bondholder. The County shall not be obligated to take any notice of any sale, assignment, pledge, mortgage, transfer or other disposition of any interest in this Lease Agreement by the Authority, unless such

sale, assignment, pledge, mortgage, transfer or other disposition is undertaken in accordance with the Assignment Agreement.

Section 8.2 Covenants of the County. The County acknowledges and confirms all covenants and representations set forth with respect to the County in the Bond Purchase Agreement and agrees to comply with all other obligations imposed upon it therein.

Section 8.3 Assignment. Simultaneously with the execution of this Lease Agreement, the Authority has entered into the Assignment Agreement by which the Authority assigns all of its rights in and to the Ground Lease and this Lease Agreement (except its rights to receive payment of its expenses and to receive notices) to the Bondholder for its benefit as the holder of the Bond. The County hereby (a) consents to such assignments, (b) agrees to execute and deliver such further acknowledgments, agreements and other instruments as may be reasonably requested by the Authority or the Bondholder to effect such assignment, (c) agrees to make all payments due to the Authority under this Lease Agreement directly to the Bondholder (except its rights to receive payment of its expenses, to receive indemnification, to receive notices and to give consents), subject to Section 4.5, and (d) agrees to comply fully with the terms of such assignment so long as such assignment is not inconsistent with the provisions hereof. All references herein to the Authority shall include the Bondholder for its benefit as the holder of the Bond and its successors and assigns, whether or not specific reference is otherwise made to the Bondholder, unless the context requires otherwise.

Notwithstanding the foregoing, no such assignment or reassignment (other than pursuant to the Assignment Agreement) of any of the Authority's right, title or interest in this Lease Agreement or the Leased Property shall be effective unless and until the County shall have received a duplicate original counterpart of the document by which the assignment or reassignment is made, disclosing the name and address of such assignee; provided, however, that if such assignment is made to a bank or trust company as paying or escrow agent for the holder of the Bond, it shall thereafter be sufficient that a copy of the trust instrument or agency agreement is no longer in effect. During the Lease Term, the County shall keep a complete and accurate record of all such assignments in form necessary to comply with Section 149(a) of the Code.

Section 8.4 Amendments. This Lease Agreement may not be amended or modified by the County and the Authority without the prior written consent of the Bondholder.

Section 8.5 No Merger. So long as any Basic Rent remains unpaid and unless the Bondholder otherwise consents in writing, the fee simple and the leasehold estates in and to the Leased Property shall not merge but shall always remain separate and distinct, notwithstanding the union of such estates by purchase or otherwise in the Authority, the Bondholder, the County, the School Board any lessee or any third party.

ARTICLE IX. MISCELLANEOUS

Section 9.1 Notices. Unless otherwise provided in this Lease Agreement, all demands, notices, approvals, consents, requests, opinions and other communications under this Lease Agreement must be in writing and will be deemed to have been given when delivered in person,

or by an overnight delivery service or other express courier service, or when mailed by registered or certified mail, postage prepaid, addressed (i) if to the Authority, c/o, Appomattox County Administrative Office, P.O. Box 863, Appomattox, Virginia 24522 (Attention: Chairman), (ii) if to the County, c/o Appomattox County Administrative Office, P.O. Box 863, Appomattox, Virginia 24522 (Attention: County Administrator) (iii) if to the School Board, c/o Appomattox County School Superintendent, 316 Court Street, Appomattox, Virginia 24522 and (iii) if to the Bondholder, at The Farmers Bank of Appomattox, P.O. Box 216, Appomattox, Virginia 24522 (Attention: Bruce Drinkard, Senior Vice President). A duplicate copy of each demand, notice, approval, consent, request, opinion or other communication given under this Lease Agreement by either the Authority, the School Board or the County to the other will also be given to the Bondholder. The Authority, the School Board, the County and the Bondholder may, by notice given under this Lease Agreement, designate any additional or different addresses or persons to which subsequent demands, notices, approvals, consents, requests, opinions or other communications are to be sent.

Section 9.2 Severability. If any provision of this Lease Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision hereof.

Section 9.3 Amounts Remaining Under Bond Purchase Agreement. It is agreed by the parties to this Lease Agreement that any amount with respect to the Bond remaining in any fund or account created under the Bond Purchase Agreement will, after payment of all amounts due from the County or the Authority pursuant to the Basic Agreements, belong to and be paid to the County.

Section 9.4 Liability of Authority. Notwithstanding any provision of the Bond or the Basic Agreements to the contrary, the obligations of the Authority under the Bond and the Basic Agreements are not general obligations of the Authority but are limited obligations payable solely from payments of Basic Rent and Additional Rent, if any. No director or officer of the Authority shall be personally liable on the Authority's obligation hereunder. The Authority shall not be liable for the actions of the County, as its agent, or for any actions of the County under the Basic Agreements.

Section 9.5 Successors and Assigns. This Lease Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

Section 9.6 Counterparts. This Lease Agreement may be executed in any number of counterparts, each of which shall be an original, together shall constitute but one and the same Lease Agreement; except that as to delivery of the original executed copy of this Lease Agreement as required by the Assignment Agreement, the counterpart containing the receipt therefor executed by the Lender following the signatures to this Lease Agreement shall be the original.

Section 9.7 Entire Agreement. The Basic Agreements express the entire understanding and all agreements between the parties and may not be modified except in writing signed by the parties.

Section 9.8 Governing Law. This Lease Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

[Remainder of this Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have caused this Lease Agreement to be duly executed as of the date first above written.

**ECONOMIC DEVELOPMENT AUTHORITY
OF APPOMATTOX COUNTY, VIRGINIA**

By: _____
Chairman

COMMONWEALTH OF VIRGINIA)
At Large)

The foregoing instrument was acknowledged before me in the County of Appomattox, Virginia, this _____ day of September, 2021, by _____, Chairman of the Economic Development Authority of Appomattox County, Virginia.

My commission expires: _____.

My Notary Registration number is: _____.

Notary Public

COUNTY OF APPOMATTOX, VIRGINIA

By: _____
Chairman, Board of Supervisors

COMMONWEALTH OF VIRGINIA)
At Large)

The foregoing instrument was acknowledged before me in the County of Appomattox, Virginia, this _____ day of September, 2021, by _____, Chairman of the Board of Supervisors of the County of Appomattox, Virginia.

My commission expires: _____.

My Notary Registration number is: _____.

Notary Public

CONSENT

The foregoing Lease Agreement, dated as of September 1, 2021, between the Economic Development Authority of Appomattox County, Virginia and the County of Appomattox, Virginia, is consented and agreed to.

APPOMATTOX COUNTY SCHOOL BOARD

By: _____
Superintendent

RECEIPT

Receipt of the foregoing original counterpart of the Lease Agreement, dated as of September 1, 2021, between the Economic Development Authority of Appomattox County, Virginia and the County of Appomattox, Virginia, is hereby acknowledged.

THE FARMERS BANK OF APPOMATTOX

By: _____

Title: _____

Exhibit A
Schedule of Lease Payments

Exhibit B
Property Description

All that property located in the County of Appomattox, Virginia and more particularly described as follows:

All that certain tract or parcel of land lying and being in the Southside Magisterial District of Appomattox County, Virginia, about one-half mile southeast of Appomattox, Virginia, adjoining the lands now or formerly owned by Lucy Tibbs, Coleman Estate and Avery, fronting on Highway No. 727, containing 31.71 acres, plus an additional 1.03 acres in the right-of-way of Highway No. 727, according to a plat of survey made by Ralph P. Hines, C.L.S., dated November 4, 1965, which said plat is to be recorded along with this deed and made a part hereof for a more accurate description of the property herein conveyed.

Being a part of the same identical property that was conveyed to the said Z. E. Cheatham, by deed dated January 12, 1951, and recorded in the Clerk's Office of the Circuit Court of Appomattox County, Virginia, in Deed Book 55, at page 392, to which reference is hereto made.

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